IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

Bail Appl..No. 5321 of 2007()

CMP.2978/2007 of J.M.F.C.-II, CHENGANNUR
EXCISE CR.NO.56/2007 OF CHENGANNUR
EXCISE RANGE

.....

PETITIONER/1ST ACCUSED:

RAJAN NAIR, S/O. KUNJUPANICKAN,
RAJA MANDIRAM, BUDHANUR MURI, ENNAKKAD VILLAGE,
CHENGANNUR.

BY ADV. SRI.S.PRAKASH

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY
PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5321 of 2007

Dated this the 6th day of September 2007

O R D E R

Application for regular bail. The petitioner faces allegations under the Kerala Abkari Act. He was allegedly found to be in possession of 20 litres of arrack on 4/4/2007. The petitioner was arrested in another crime on 24/6/2007. His arrest was recorded in this crime on 3/8/2007. He continues in custody in this case from that date.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. It is prayed that the petitioner who has been actually remaining in custody from 24/6/2007 and is shown as in custody from 3/8/2007 in the crime may now be enlarged on bail.

3. The learned Public Prosecutor opposes the application vehemently. The learned Public Prosecutor submits that the petitioner has four other cases under the Kerala Abkari Act to his credit in this excise range. The learned Public Prosecutor further submits that the petitioner had allegedly attacked the

person who he assumed had furnished the relevant information to the excise officials to facilitate the conduct of the raid in question. In these circumstances, it is prayed that the petitioner may not be granted regular bail at this stage.

4. In the wake of the opposition by the learned Public Prosecutor, regular bail can be granted to the petitioner only if this court is in a position to entertain the twin satisfactions under Section 41A of the Kerala Abkari Act. I do not find any circumstances which can persuade this court to entertain either of those two satisfactions at the moment. I am satisfied that this petition deserves to be dismissed now.

5. In the result, this petition is dismissed. I may hasten to observe that the petitioner shall be at liberty to move this court for bail at later stage of the investigation, not at any rate, prior to 15/09/2007. The investigating officer shall, in the meantime, make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007